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COMMITTEE AGAINST TORTURE

Eighteenth session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 286th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 30 April 1997, at 3.40 p.m.

Chairman: Mr. DIPANDA MOUELLE

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* The summary record of the first part (closed) of the meeting appears as document CAT/C/SR.286.

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The public part of the meeting was called to order at 3.40 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4) (continued)

Third periodic report of Mexico (CAT/C/34/Add.2) (continued)

1. At the invitation of the Chairman, Mr. Joublanc, Mr. Hernandez Basave and Ms. Perez-Duarte (Mexico) resumed places at the Committee table.

2. Mr. JOUBLANC (Mexico), replying to comments made by members of the Committee on what they saw as possible antagonism towards foreigners, said that the 1995 expulsions mentioned in the report all related to foreigners who had not been resident in the national territory and most of whom had not fulfilled the legal requirements for the entry of migrants into Mexico. Over the years, Mexico had welcomed many refugees fleeing political strife in their country. One example was the programme, which had been described as exemplary by the Office of the United Nations High Commissioner for Refugees (UNHCR), to protect and subsequently facilitate the voluntary repatriation of Guatemalan refugees. The Committee could rest assured that the expulsions were in no way contrary to article 3, paragraph 1, of the Convention. The outcome of the interviews between the 20 people who had expressed fear of returning to their countries of origin and the United Nations High Commissioner for Refugees would be reported to the Committee at a later date.

3. Ms. PEREZ-DUARTE (Mexico) said that, under the Federal Act to Prevent and Punish Torture and local legislation, persons found guilty of torture were not only liable to a prison sentence, but were also required to pay compensation to the victim. The amount to be paid varied from case to case. However, in cases where the guilty person had not been identified and subsequently tried for the crime, the State assumed responsibility for compensating the victim of torture. In cases where proceedings or investigations were lengthy, the State did not wait until they had been concluded to provide compensation.

4. Confessions and the corroborating evidence of two witnesses were no longer taken to be conclusive proof of a person's guilt. Furthermore, only confessions made before the Public Prosecutor or the judge trying the case or in the presence of legal counsel were admissible as evidence. All evidence had to be considered before a verdict could be handed down in any type of court. There were, however, some problems in that the quality of the preparation of cases varied from region to region in the country. Article 20 of the Constitution stated that defendants did not have to give evidence against themselves and, in paragraph 2, that they could not be held incommunicado, intimidated or tortured. A person had the right to legal representation from the moment he had been arrested. Officially appointed lawyers were available for people who could not afford to pay for their own defence counsel. Unfortunately, however, such lawyers were often just beginning their legal careers and therefore lacked the experience to defend their clients effectively.

5. The National Human Rights Commission (CNDH) and other legislative, executive and judicial bodies actively and openly worked to combat cases of torture and create a climate of respect for human rights. Prisons and detention centres were closely monitored and inspectors could visit as and when they wished without authorization from the authorities and act on complaints which they had received from individuals or which had been referred to in the media.

6. The Judicial Police had internal control mechanisms which appeared to be operating efficiently and were monitored by the Attorney-General's Office and the Public Prosecutor's Department, which also monitored the conduct of public officials. However, there was room for improvement in legislation on the overall monitoring of police services.

7. The remedy of amparo provided a quick, simple and inexpensive procedure for the enforcement of constitutional rights.

8. The members of the Committee had expressed concern about amicable settlements arranged between public authorities or officials and Federal and State human rights bodies in cases of human rights violations. There was no question of impunity and wrongful acts by State authorities or officials were punished. The aim of a settlement was to ensure that a complainant's rights that had been violated were restored as promptly and as effectively as possible.

9. Reference had been made to the marked difference between the figures for credible cases of torture submitted by the National Human Rights Commission and the figures for legal action leading to the conviction and punishment of the guilty persons. Whereas the Commission operated as a kind of ombudsman, giving the plaintiff the benefit of the doubt, the judicial authorities were obliged to follow strict legal procedures in criminal cases. If the evidence produced was not absolutely compatible with the corpus delicti for torture, the accused person could not be convicted. In legal proceedings, it was the defendant who enjoyed the benefit of the doubt and many of the cases taken up by the Commission were extremely complex. The authorities were nevertheless deeply concerned about the number of allegations of torture and the small number of convictions.

10. Every year, an increasing number of federal and local officials attended the excellent courses provided by the Inter-American Institute of Human Rights and transmitted their skills to other officials on completing the courses. The authorities themselves did not provide training courses, but took advantage of the facilities offered by the universities. Officials from all levels of the public sector attended interdisciplinary courses prepared by such prestigious bodies as the Mexican Human Rights Academy at the authorities' expense. In addition to the police academies, a Penal Science Institute provided courses in, for example, studies of DNA for the identification of human remains and traumatology.

11. Unfortunately, the circumstances surrounding the abduction and murder in 1995 of the former judge Dr. Abram Polo Usganga had not been clarified. Although a great deal had been made of the possible link between his murder

and disagreements with the then President of the High Court of Justice, no cause-and-effect relationship had been demonstrated. The case was by no means closed, but continued to be investigated by the Human Rights Commission of the Federal District, a special investigator appointed by the Office of the Attorney-General and the Judicature Council of the High Court of Justice.

12. Manuel Manriquez San Agustín had been sentenced to 24 years' imprisonment for the crime of aggravated homicide and was currently serving his sentence in the State of Jalisco. The National Human Rights Commission had alleged, in recommendation No. 35/94, that Mr. San Agustín had been tortured in the early stages of his detention. The Attorney-General's Office and, subsequently, the federal courts had investigated the allegation and filed charges against two officials. One had been sentenced and the other was still at large. A number of non-governmental organizations had petitioned for the release of Mr. San Agustín as a victim of torture, but his conviction for aggravated homicide had not been based solely on a confession obtained through torture, but had been supported by a large body of evidence.

13. With regard to the case of Marcelino Zapoteco Acatitlán, a case file had been opened on the basis of a complaint transmitted to the Human Rights Commission of the State of Guerrero in September 1996 by the Mexican League for the Defence of Human Rights. Members of the staff of the Commission had visited the hospital where Mr. Zapoteco Acatitlán, a minor, had been a patient and found that the victim himself had accused a fellow inmate of inflicting the serious injuries that had subsequently led to his death. The motive for the attack had allegedly been the victim's activities on behalf of a non-governmental organization. Preliminary investigations by the Attorney-General's Office had begun the day prior to Mr. Zapoteco Acatitlán's death. His brother had filed an official complaint against the authorities and criminal proceedings had been instituted against the prisoner accused by Mr. Zapoteco Acatitlán. The State Human Rights Commission was also investigating the possible criminal or administrative liability of the authorities responsible for juvenile offenders.

14. With regard to the threats against Bishop Samuel Ruíz and other human rights defenders, the authorities had proposed to carry out more thorough investigations and to provide protection. The offer of protection had in most cases been refused and the authorities had been unable to proceed with investigations in the absence of official complaints.

15. The members of the foreign observation mission on human rights who had been expelled from Mexico in April 1997 had entered the country on tourist visas and their subsequent activities had been found incompatible with that category of visa and hence to be a breach of the Immigration Act.

16. She was unable to reply to all the questions put by the Committee, but undertook to do so personally or in writing as soon as she had obtained the relevant information from the Mexican authorities.

17. Mr. JOUBLANC (Mexico) said that his country was eager to develop a human rights culture by raising awareness of issues such as those dealt with by the Committee. Unfortunately, the recent economic crisis had adversely affected

social behaviour, leading to an increase in crime and in some cases to abuses in crime-fighting. The Mexican authorities attached great importance to continued dialogue with the Committee with a view to curtailing such abuses.

18. The CHAIRMAN said he had received a letter that morning from the International Federation of Human Rights concerning the observation mission that been expelled from Mexico. It stated that the Mexican Government, the federal and local authorities and the various human rights commissions had been notified in advance of the observation mission and that meetings had been arranged with the federal and local authorities in the Federal District and in the States of Guerrero, Oaxaca and Chiapas.

19. He thanked the delegation for its replies and announced that the Committee's conclusions and recommendations would be communicated at a later meeting.

The meeting rose at 5 p.m.